

REMARKS

In the Office Action, claims 1-44 were pending. Claims 36-39 were withdrawn from consideration. Claims 1-35 and 40-44 were rejected.

I. Rejections under 35 U.S.C. § 102

A. Rejection over US Patent No. 5,780,372 ("Higby")

In the Office Action, claims 1-35, 40, and 41 were rejected under 35 U.S.C. § 102(e) as being anticipated by Higby. The Examiner stated that since the composition of Higby is the same as those of the claimed invention, it follows that the glasses of Higby would inherently possess the same total solar infrared transmittance and total solar energy transmittance properties.

1. The Present Invention

The present invention is a blue colored glass having a limited luminous transmittance of less than 70 percent. In various embodiments as defined by the amended independent claims, the present invention is a blue glass composition and an automotive transparent glazing panel comprising a base glass portion and a primary solar radiation absorbing and colorant portion consisting essentially of: from 30 to 250 PPM of CoO; from 1 to 15 PPM of Se; and from 0 to 0.9 weight percent of TiO₂ based on the weight percent of the composition.

2. The Higby Reference

The Higby reference teaches a glass composition. As defined in claim 1, the invention of Higby is a soda-lime-silica glass having a base glass composition and colorants consisting essentially of from about 1 to about 3 weight percent Fe₂O₃ (total iron), from about 0.1 to about 1.0 weight percent TiO₂, and from about 0 to about 500 PPM CO₃O₄.

At column 4, line 48 of the Higby reference, it states that the glass is essentially free of colorants other than iron, titanium dioxide, and optionally cobalt oxide. Further, the following can be found at column 4, line 65: the field of tinted glasses is one in which relatively small changes can produce major changes in tint. Wide ranges disclosed in prior patents can encompass many possibilities, and it is only the teaching of the specific examples that can be relied on as identifying how particular tints associate with particular ranges of solar heat transmittance and ultraviolet radiation absorption.

3. Traversal of the Rejection

To anticipate a claim, a single source must contain all of the elements of the claim. See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). As amended, independent claims 1, 23, and 34 comprise a primary solar radiation absorbing and colorant portion-consisting essentially of cobalt oxide, titanium dioxide, and selenium. Because transition language used to specify the primary solar radiation absorbing and colorant portion is “consisting essentially of”, components other than the ones specified that can affect the performance of the coating cannot be added.

The Higby reference does not teach or suggest the claimed primary solar radiation absorbing and colorant portion of the present invention. Consequently, independent claims 1, 23 and 34 and all the claims that depend therefrom should be allowable. The rejection of claims 1-35, 40, and 41 under 35 U.S.C. § 102(e) as being anticipated by Higby are improper and should be withdrawn.

B. Rejection over US Patent No. 5,582,455 (“Casariego”)

In the Office Action, claims 1-17, 19-29, 31-35, and 40-44 were rejected under 35 U.S.C. § 102(b) as being anticipated by Casariego. The Examiner stated that since the composition of Casariego is the same as those of the claimed invention, it follows that the glasses of Casariego would inherently possess the same total solar infrared transmittance and total ultraviolet transmittance properties.

1. The Casariego Reference

The Casariego reference discloses a glazing set. As defined in claim 1, the invention of Casariego is a glazing set mounted on an automobile vehicle, comprising a windscreen, front side windows and rear side windows and a rear window, wherein each of the rear side windows, both movable and fixed, and the rear window comprise a glazing pane comprising a coloured glass sheet having a thickness of from 2 to 8 millimeters, wherein the coloured glass sheet has a composition and, consisting essentially of, as colouring agents: from 0.5 to 1.5% Fe_2O_3 (total iron) with FeO content representing from 16 to 55% of the total iron content expressed in the form of Fe_2O_3 ; from 0.003 to 0.015% CoO; from 0.025 to 0.09% Cr_2O_3 ; and from 0 to 0.0025% Se.

As stated in column 2, line 43 of Casariego reference the glasses according to this invention may comprise part only of these colouring agents or the totality of these agents in proportions duly chosen as a function of the characteristics desired.

2. Traversal of the Rejection

To anticipate a claim, a single source must contain all of the elements of the claim. See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). As amended, independent claims 1, 23, and 34 comprise a primary solar radiation absorbing and colorant portion-consisting essentially

of cobalt oxide, titanium dioxide, and selenium. Because transition language used to specify the primary solar radiation absorbing and colorant portion is “consisting essentially of”, components other than the ones specified that can affect the performance of the coating cannot be added.

The Casariego reference does not teach or suggest the claimed primary solar radiation absorbing and colorant portion of the present invention. Consequently, independent claims 1, 23 and 34 and all the claims that depend therefrom should be allowable. The rejection of claims 1-17, 19-29, 31-35, and 40-44 under 35 U.S.C. § 102(b) as being anticipated by Casariego are improper and should be withdrawn.

C. Rejection over US Patent No. 5,851,940 (“Boulos”)

In the Office Action, claims 1-35 were rejected under 35 U.S.C. § 102(e) as being anticipated by Boulos.

1. The Boulos Reference

The Boulos reference teaches a blue glass composition. As defined in claim 1, the invention of Boulos is a blue colored ultra violet and infra red absorbing glass composition, having a base glass composition and colorants consisting essentially of: 0.4 to 2.0% total iron oxide as Fe_2O_3 ; 0.15 to 2.00% manganese oxide as MnO_2 ; 0.005 to 0.025% cobalt oxide as Co, and 0 to 1.00% titanium oxide as TiO_2 , all percentages being based on the weight percent of the total blue glass composition.

2. Traversal of the Rejection

To anticipate a claim, a single source must contain all of the elements of the claim. See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). As amended, independent claims 1, 23, and 34

comprise a primary solar radiation absorbing and colorant portion-consisting essentially of cobalt oxide, titanium dioxide, and selenium. Because transition language used to specify the primary solar radiation absorbing and colorant portion is “consisting essentially of”, components other than the ones specified that can affect the performance of the coating cannot be added.

The Boulos reference does not teach or suggest the claimed primary solar radiation absorbing and colorant portion of the present invention. Consequently, independent claims 1, 23 and 34 and all the claims that depend therefrom should be allowable. The rejection claims 1-35 under 35 U.S.C. § 102(e) as being anticipated by Boulos are improper and should be withdrawn.

D. Rejection over US Patent No. 5,994,249 (“Graber”)

In the Office Action, claims 1-33, 40, and 41 were rejected under 35 U.S.C. § 102(e) as being anticipated by Graber. The Examiner stated that since the composition of Graber is the same as those of the claimed invention, it follows that the glasses of Graber would inherently possess the same dominant wavelength and excitation purity

1. The Graber Reference

The Graber reference teaches a blue glass composition. As defined in claim 1, the invention of Graber is an ultraviolet and infrared radiation absorbing blue glass composition comprising a soda-lime-silica base glass composition and a colorant portion consisting essentially of from 0.5% to 0.9% Total Iron (Expressed as Fe_2O_3 ; from 50 to 100 PPM (by weight) CoO ; and from 0.1% to 2.0% (by weight) TiO_2 .

2. Traversal of the Rejection

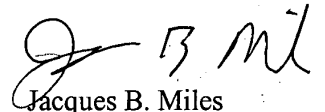
To anticipate a claim, a single source must contain all of the elements of the claim. See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). As amended, independent claims 1, 23, and 34 comprise a primary solar radiation absorbing and colorant portion-consisting essentially of cobalt oxide, titanium dioxide, and selenium. Because transition language used to specify the primary solar radiation absorbing and colorant portion is “consisting essentially of”, components other than the ones specified that can affect the performance of the coating cannot be added.

The Graber reference does not teach or suggest the claimed primary solar radiation absorbing and colorant portion of the present invention. Consequently, independent claims 1, 23 and 34 and all the claims that depend therefrom should be allowable. The rejection of claims 1-33, 40, and 41 under 35 U.S.C. § 102(e) as being anticipated by Graber are improper and should be withdrawn.

CONCLUSION

In light of the amendments and remarks presented in this correspondence, the following rejections should be withdrawn: the rejection of claims 1-35, 40, and 41 under 35 U.S.C. § 102(e) as being anticipated by Higby; the rejection of claims 1-17, 19-29, 31-35, and 40-44 under 35 USC 102(b) as being anticipated by Casariego; the rejection of claims 1-35 under 35 U.S.C. § 102(e) as being anticipated by Boulos; and the rejection of claims 1-33, 40, and 41 under 35 U.S.C. § 102(e) as being anticipated by Graber. Claims 1-35 and 40-44 should be in condition for allowance. If any questions remain about this application, please call me at 412-434-2938. Thank you.

Respectfully,


Jacques B. Miles
Registration No. 42,888
Attorney For Applicant
Telephone 412-434-2938

November 10, 2003